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11 e-centives, INC., a Delaware corporation
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

12 TRIFOCAL, LLC, a California limited liability
13 corporation,

14 Plaintiff,

15 vs.

16 E-centives, INC., a Delaware corporation,
17

Defendant.

No. C03 05413 JW

NOTICE OF STIPULATED
WAIVER OF JURY TRIAL

*AND ORDER

19 E-centives, INC., a Delaware corporation,

20 Cross-Complainant,

21 vs.

22 TRIFOCAL, LLC, a California limited liability
23 corporation,

24 Cross-Defendant.

25 WHEREAS, PLAINTIFF TRIFOCAL, LLC and DEFENDANT E-CENTIVES (collectively,
26 the "parties") have stipulated to waive jury and proceed with a court trial;

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{00158707v1}

-1-

NOTICE OF STIPULATED WAIVER OF JURY TRIAL

1 IT IS HEREBY STIPULATED by the parties, through their respective attorneys of record, as
2 follows:

3 1. The parties waive their right to trial by jury with respect to all claims or defenses
4 raised in the complaint or cross-complaint, or answers thereto, in this action, and hereby elect to
5 proceed with a court trial on all claims, causes of action, and defenses in this litigation.

6
7 Dated: September 29, 2005

CARR & FERRELL LLP

8 By James A. Lucey
9 JAMES W. LUCEY

10 Attorney for Trifocal, LLC

11 Dated: September 29, 2005

12 BERLINER COHEN, Attorney for E-centives, Inc.

13 By Frank R. Ubhaus
14 FRANK R. UBHAUS
15 JOHN F. DOMINGUE

16
17 ORDER

18 Pursuant to the above stipulation, IT IS HEREBY ORDERED that the above-captioned matter
19 shall proceed by court trial.

20
21 9/30/05

